

FAQs About IDEA 2004

Children with Disabilities Placed in Private Schools by Their Parents

Changes were made to the private school provisions in the IDEA 2004. The most significant change is that the public school district in which the private elementary or secondary school is located must conduct child find, determine the proportionate share of IDEA Part B funds, and provide equitable services to parentally placed private school children with disabilities who attend private elementary or secondary schools without regard to where the children reside.

What is the definition of a private school?

A private school is a non-public school that is established and maintained specifically under 20-5-109, MCA, with private funds.

Are Head Start programs and private preschool programs considered private schools?

Generally, no. The IDEA 2004 uses the term "private elementary and secondary schools." In order to be considered a private school for the purposes of calculating the proportionate share and the provision of special education services to parentally enrolled students, the private school must provide an education program for children who have reached the age of 5 on or before September 10 of the year in which they are enrolled.

Must a school district conduct child-find activities to identify children with disabilities parentally-placed in private schools located outside the school district's boundaries?

No. A school district has no responsibility for conducting child-find activities (referral, evaluation and eligibility determination) at private elementary and secondary schools located outside of the school district's boundaries. A district **is** obligated to conduct child-find activities for students enrolled in private elementary and secondary schools within the district's geographical boundaries.

What is the responsibility of the district of residence for a free appropriate public education when a child with disabilities is parentally placed in a private elementary or secondary school located in another district?

The district in which the student resides is required to offer each child with disabilities a free appropriate public education. However, the responsibility of the district in which the student resides ends if the parent declines the offer and enrolls the child in a private school.

When an IDEA-eligible student is parentally enrolled in a private school and also enrolled in the public school, should the public school develop an IEP or a Services Plan?

When the student is enrolled in a public school for less than 100 percent of the school day, the student is considered to be a private school student for purposes of receiving special education services. Therefore, the public school should develop a Services Plan. The student would only be eligible for those special education services that the public school had agreed to provide to private school students with its proportionate share funds.

If the private school has developed its own IEP for an IDEA-eligible student, must the public school develop its own Services Plan for the student?

Yes. A Services Plan must be developed for each IDEA-eligible private school student served by the public school.

If the district expends all of its IDEA proportionate share funds on services to private school students before the end of the school year, must the district continue to provide special education services to the private school student(s)?

No

The reauthorized Individuals with Disabilities Education Act (IDEA) became effective on July 1, 2005. This list of Frequently Asked Questions (FAQ) sheet is one of a series from the Montana Office of Public Instruction which highlight changes resulting from the reauthorization of the IDEA. Additional changes may result from the final regulations.

If you have further questions, please contact your local special education director or the Montana Office of Public Instruction. A complete listing of current OPI IDEA FAQs can be found at www.opi.mt.gov/speced/FAQs.



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